

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

April 2, 2009

Charles R. Fulbruge III  
Clerk

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No. 08-10594  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

CLAYTON H FUCHS

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:02-CR-369-1  
USDC No. 3:07-CV-958

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Before SMITH, STEWART, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Clayton H. Fuchs, federal prisoner # 29679-177, appeals the district court's denial of his motion for release pending the disposition of his 28 U.S.C. § 2255 motion. Release pending disposition of a Section 2255 motion will be granted only when the prisoner has raised a substantial constitutional claim upon which he has a high probability of success, and also when extraordinary or exceptional circumstances exist which make the grant of bail necessary to make the

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

postconviction remedy effective. *Calley v. Callaway*, 496 F.2d 701, 702 (5th Cir. 1974). Regardless of the merits of Fuchs's claims, upon which the district court has not yet ruled, Fuchs has not pointed to any "extraordinary or exceptional circumstances" that necessitate his release to make the postconviction remedy effective. The district court did not err by denying Fuchs's motion for release. Fuchs's motions to expedite this appeal, to supplement the appeal, and to require timely action in the district court are denied.

AFFIRMED, MOTION DENIED.